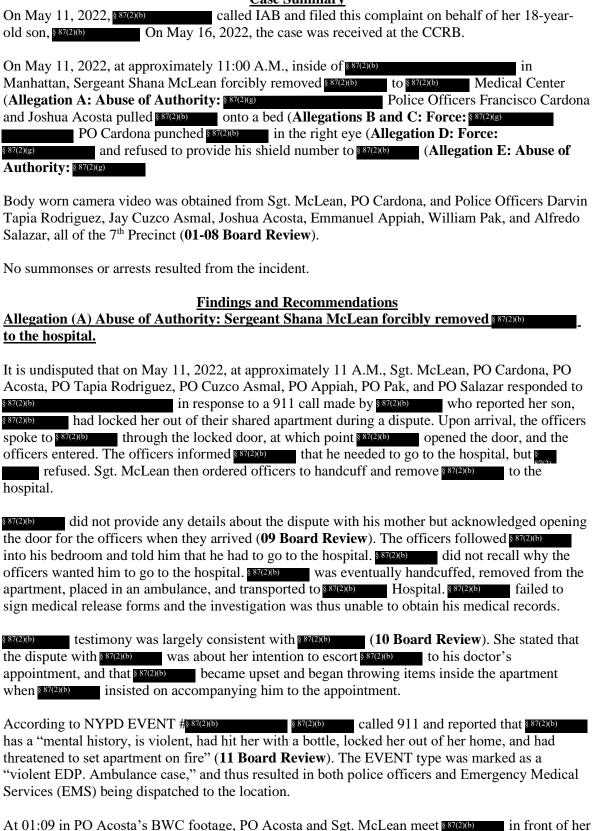
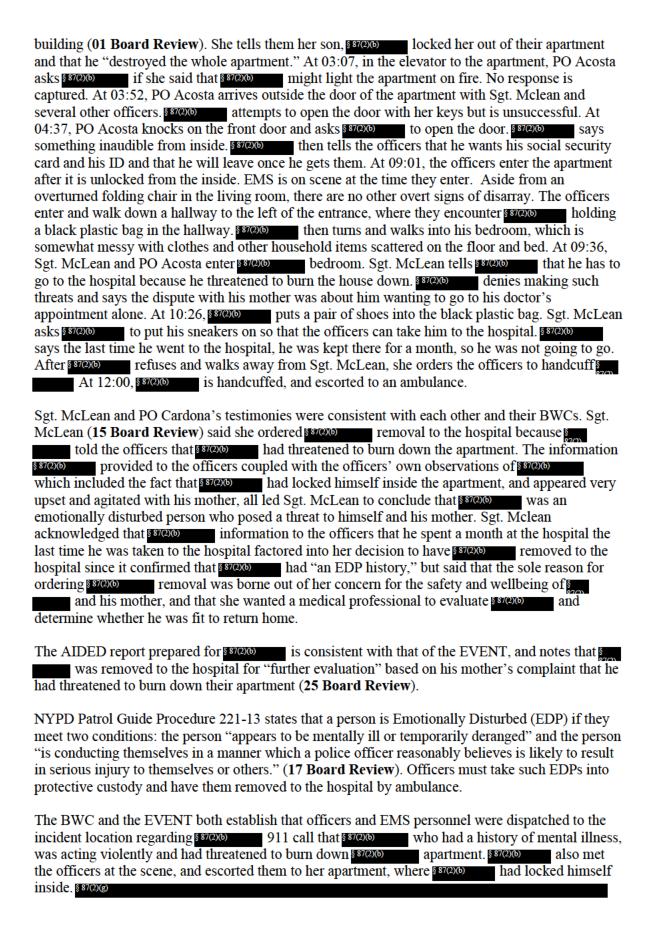
## CCRB INVESTIGATIVE RECOMMENDATION

Torresticator		Team:	CCRB Case #:		Farras	_	Discount		,
Investigator:				1	Force	Ш	Discourt.		
Coleson Smith		Squad #01	202203095	✓	Abuse		O.L.	☑ Inju	шy
Incident Date(s)		Location of Incident:	•		18 N	Mo. S	OL	Preci	nct:
Wednesday, 05/11/2022 11:00 A	AM	§ 87(2) <b>(b</b> )			11/	11/20	23	07	7
Date/Time CV Reported		CV Reported At:	How CV Reporte	d:	Date/Tin	ie Rec	eived at CC	RB	
Wed, 05/11/2022 2:28 PM		IAB	Phone		Mon, 05/	16/202	22 10:56 Al	M	
Complainant/Victim	Туре	Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. PO Joshua Acosta	03792	955705	007 PCT						
2. PO Francisco Cardona	02358	936304	007 PCT						
3. SGT Shana Mclean	01842	950869	007 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. PO Jay Cuzcoasmal	17532	971393	007 PCT						
2. PO Darvin Tapiarodriguez	26067	972479	007 PCT						
3. PO Emmanuel Appiah	02192	972512	007 PCT						
4. PO William Pak	03244	953212	007 PCT						
5. PO Alfredo Salazar	02232	954310	007 PCT						
Officer(s)	Allegatio	n			Inv	estig	ator Recor	nmendat	tion
A.SGT Shana Mclean		ergeant Shana McLean the hospital.	forcibly removed§	87(2)(b)					
B.PO Francisco Cardona		Force: Police Officer Francisco Cardona used physical force against \$83(2)(6)			orce				
C.PO Joshua Acosta		Force: Police Officer Joshua Acosta used physical force against § \$7(2)(6)							
D.PO Francisco Cardona	Force: Po	Force: Police Officer Francisco Cardona used physical force against \$87(2)(b)							
E.PO Francisco Cardona		olice Officer Francisco number to \$87(2)(b)	Cardona refused to	prov	ride				

## **Case Summary**





CCRB CTS – Confidential Page 3

Asmal's video. At 10:54 in PO Cuzco Asmal's BWC footage, he is standing directly behind PO Cardona, who is attempting to handcuff (03 Board Review). At 10:55, PO Cardona's elbow moves backward rapidly, knocking PO Cuzco Asmal's BWC from its holder on his chest. In several of the last frames captured before the camera falls to the ground (timestamp 11:47:51), PO Cardona's right arm is bent at the elbow, and the fingers of his right hand are curled in a fist. At 12:00 in PO Cardona's BWC, gets up from the bed while squinting his right eye and complaining that someone punched him in the eye (02 Board Review). A screenshot from the 12:01 mark of PO Cardona's BWC footage shows (13 Board Review). None of the BWCs, which depicted the entire incident, show requesting the badge number of any officer.

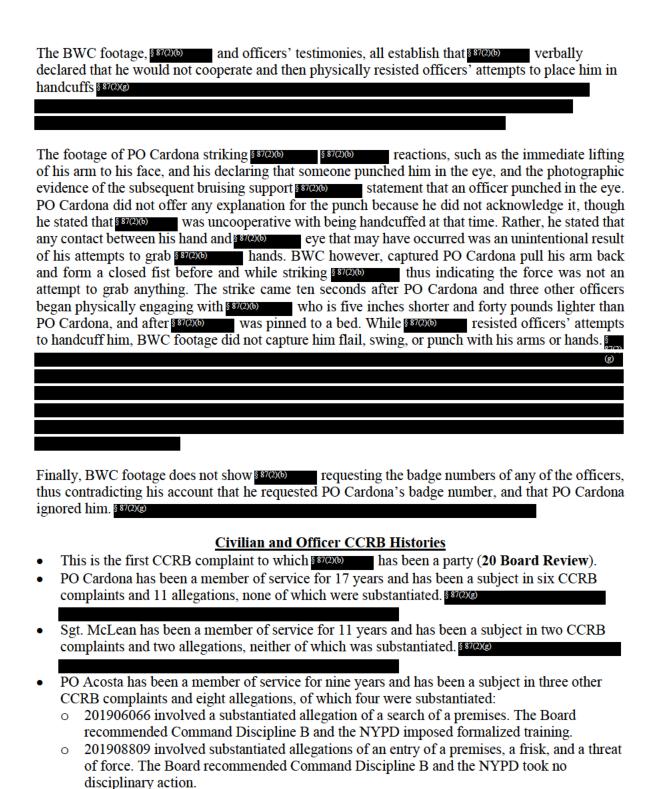
A Threat Resistance Injury Report completed by Captain Owais Khanzada states the following types of force was used by members of service during the incident: "Wrestling/Grappling, Forcible Take down, Hand Strike" (26 Board Review).

Sgt. McLean (15 Board Review) and PO Cardona (16 Board Review) acknowledged that pulled away, tensed his body, and struggled with officers when they tried to place him in handcuffs, and that PO Cardona and PO Acosta performed a tactical takedown to bring structure to the bed so the officers could secure and handcuff him. PO Cardona acknowledged falling on top of during the takedown and said other officers in the bedroom appeared to assist him and PO Acosta in obtaining hands, which the officers ultimately obtained after a brief struggle with struggle with who continued to tense his body and refused to give the officers his hands. PO Cardona did not use any other form of force against striking struggle with a closed fist, and said the force he used was reasonable and consistent with restraining striking so he could be handcuffed. PO Cardona reviewed PO Acosta's BWC and acknowledged seeing his "right arm" moving towards the direction of striking face but denied striking struggle, that he may have hit him in the head, but that any contact with struggle with saying. "Nigga punched me in my eye."

PO Cardona's pedigree information attached to his MOS photo lists that he is 6'1" tall and weighs 180 pounds (**24 Board Review**).

NYPD Patrol Guide Procedure 221-01 states "Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody (18 Board Review). In all circumstances, any application or use of force must be reasonable under the circumstances." In determining whether the use of force is reasonable, members of the service should consider the following: a) The nature and severity of the crime/circumstances; b) Actions taken by the subject; c) Duration of the action; d) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; e) Whether the subject is actively resisting custody; f) Whether the subject is attempting to evade arrest by flight; g) Number of subjects in comparison to the number of MOS; h) Size, age, and condition of the subject in comparison to the MOS; i) Subject's violent history, if known; j) Presence of hostile crowd or agitators; k) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

In DCT case number 2017-17014, an officer was found guilty of excessive force for striking a civilian in the face after the civilian placed something in his pocket and refused to answer the officer's questions during a street stop prompted by a tip reporting a gun (27 Board Review). The case decision cites the "gratuitous" nature of the punch that was used "without police necessity."



## Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 19, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (21-22 Board Review).

[8 81/2](0)] [88 80(1	),(-),(-),[		
Squad:	1		
Investigator:	Coleson Smith Signature	Investigator Coleson Smith Print Title & Name	03/16/2023 Date
Squad Leader:	Mgr. Joy Almeyda Signature	Print Title & Name	3.17.23 Date
Reviewer:	Signature	Print Title & Name	Date